IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 22845 of 2000

Between:

1 Abu Taher S/o.Abdul Karim
R/o.Adilabad Dist.
2 Mohd.Masood Ahmed
R/o.Adilabad Dist.

..... PETITIONERS

AND

1 The Principal Secretary to Govt of A.P Financial & Planning

(F.W.Pension) Dept, Secretariat Buildings Hyderabad.
2 The District Judge Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the clause 5 of the G.O.(P)No.156 Finance & Planing (F.W.Pension-I) Dept, dated 16-09-1999 to the extent given infra "No difference on retirement, Gratuity and commutation shall be allowed in the pension notionally fixed as above and also the amendment made as per G.O.Ms.No.206, dated 23-12-1999 to the G.O.Ms.No.114, dated 11-8-1999 as given below:

"Persons who retired between 1-7-1998 and 31-3-1999 shall also be eligible for the revised pay scale 1999.The Notional pay fixed in the Revised pay scale, 1999 in accordance with these orders, shall in such cases count towards pension

notionally and the monetary benefit of the revised pension shall be allowed with effect from 1-4-1999" is arbitrary, illegal and violative Article 14 of the Constitution of India and consequently direct the 1st respondent to pay the gratuity and Commutation of Pension and encashment of earned leave on the basis of notional pay fixed as per Revised pay Scale 1999.

Counsel for the Petitioner: MR.NAZEER KHAN

Counsel for the Respondent No.1: None appeared.

Counsel for the Respondent No.2: MR.C.V.NAGARJUNA REDDY

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Petitioner has placed reliance on a decision of a Division Bench of this Court in W.P.No.20755 of 2002 and batch dated 10th September, 2003 reported as STATE GOVERNMENT PENSIONERS ASSOCIATION vs STATE OF A.P., [2004 (1) ALD 338] stating that this case is squarely covered by the said decision. Learned counsel for the respondent No.1 states that the aforesaid decision has been challenged in the Supreme Court and there is stay operating in the said case.

In view of the aforesaid decision of the Division Bench of this Court, the action of the respondents in not making the petitioners eligible for pensionary benefits as per the revised pay scales of 1999 as per G.O.Ms.No.206, Finance and Planning dated 23rd December, 1999 has to be held as bad in law. Resultantly, writ petition deserves to be allowed. Since an appeal has been carried to the Supreme Court against the aforesaid decision of the Division Bench of this court and there is stay operating, we dispose of this writ petition with direction that ultimate decision to be rendered by the Supreme Court in the appeal will bind the parties and the respondents will act accordingly.

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DEVINDER GUPTA, CJ

23-12-2004

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B.SESHASAYANA REDDY, J

Tvr

To

1 The Principal Secretary to Govt of A.P Financial & Planning

(F.W.Pension) Dept, Secretariat Buildings Hyderabad.
2 The District Judge Adilabad District.

3. 2 CCs to the Standing Counsel for the High Court, High Court

Buildings, Hyderabad.

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